

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

**MEYER NATURAL FOODS, LLC, and
CRUM & FORSTER SPECIALTY
INSURANCE COMPANY,**

Plaintiffs,

V.

**LIBERTY MUTUAL FIRE INSURANCE
COMPANY,**

Defendant.

Case No. 4:15-cv-3116

Removed from the District Court of
Douglas County, Nebraska,
Case No. D01CI150003754

NOTICE OF REMOVAL, JURY DEMAND, REQUEST FOR PLACE OF TRIAL
[28 U.S.C. §§ 1332, 1441, 1446]

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Liberty Mutual Fire Insurance Company (“Liberty Mutual”) files this Notice of Removal of this case from the District Court of Douglas County, Nebraska. Liberty Mutual’s short and plain statement of the grounds for removal is as follows:

1. On or about April 24, 2015, Plaintiffs Meyer Natural Foods, LLC (“Meyer”) and Crum & Forster Specialty Insurance Company (“Crum & Forster”) (collectively, “Plaintiffs”) filed their Complaint.
2. On August 31, 2015, Plaintiffs served Liberty Mutual.
3. As required by 28 U.S.C. § 1446(a), Exhibit A contains copies of all “process, pleadings and orders served upon each such defendant.” *See Exhibit A.*
4. Any civil action filed in state court over which the federal district courts would have original jurisdiction may be removed. 28 U.S.C. § 1441(a).
5. Plaintiffs claim that Meyer’s beef product was contaminated with E. coli while in the possession of Liberty Mutual’s insured, Greater Omaha Packing Co., Inc., causing a loss of

\$1,395,227. *See Exhibit A*, Petition (what would be ¶ 14, but it is not a numbered paragraph, it simply precedes the Wherefore paragraph). In addition to monetary damages, Plaintiffs seek “a declaration that coverage is owing from Liberty Mutual to Plaintiff Meyer.” *See Exhibit A*, Petition, Wherefore paragraph. As discussed below, this case is removable because this Court has subject matter jurisdiction on diversity grounds pursuant to 28 U.S.C. § 1332(a). All parties to this action are diverse, the amount in controversy is greater than \$75,000, and this notice is filed within 30 days of Liberty Mutual being served with the Petition and Summons.

A. Plaintiff and Defendant Are Citizens of Different States

6. Complete diversity of citizenship exists between Plaintiffs and Liberty Mutual.

7. Meyer is a limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Loveland, Colorado. *See Exhibit A*, Petition, ¶ 1. Because Meyer is an LLC, its citizenship, for purposes of diversity jurisdiction, is the citizenship of each of its members. *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007). Meyer has two members: the Robert E. Meyer Trust U/A/D June 6, 2000 and Meyer Properties Corp. Robert E. Meyer is a citizen of the State of California and serves as the trustee of the aforementioned trust. *See Exhibit B*, Notice of Removal in *Freeman v. Premium Natural Beef, LLC*, No. CIV-12-1390-F, 2012 WL 6626979 (W.D. Okla. December 14, 2012), ¶ 6. Meyer Properties Corp. is an entity incorporated under the laws of the State of Delaware, with its principal place of business located in the State of California. *Id.*

8. Crum & Forster is a corporation organized under the laws of the State of Arizona, which has been domesticated in the State of Delaware. *See Exhibit C*, Declaration of Melissa Miller. Crum & Forster’s principal place of business is located in Morristown, New Jersey.

9. Liberty Mutual is, and was at the time suit was filed, a foreign corporation incorporated under the laws of the State of Wisconsin, with its principal place of business located in Boston, Massachusetts. *See Exhibit C*, Declaration of Melissa Miller.

10. Because Liberty Mutual is a citizen of Wisconsin and Massachusetts, and no plaintiffs are citizens of either state, there is complete diversity among the parties.

B. Notice of Removal Was Filed Within 30 Days of Being Served, As Required by 28 U.S.C. § 1446(b)

11. Liberty Mutual was served with Plaintiffs' Petition on August 31, 2015. This removal is timely under 28 U.S.C. § 1446(b)(1) in that it is filed within thirty (30) days of August 31, 2015.

C. The Amount in Controversy Exceeds \$75,000, Exclusive of Interest and Costs, As Required by 28 U.S.C. § 1332(a)

12. To meet its burden with regard to the jurisdictional amount, the removing party must prove by a preponderance of the evidence that the amount in controversy exceeds \$75,000. *Bell v. Hershey Co.*, 557 F.3d 953, 956 (8th Cir. 2009). Plaintiffs assert that they are entitled to judgment against Liberty Mutual in the amount of \$1,395,227. *Exhibit A*, Petition, Wherefore paragraph. Consequently, the amount in controversy in this case exceeds \$75,000, satisfying the requirements of 28 U.S.C. § 1332(a).

D. Removal to This District Is Proper

13. By reason of the amount in controversy and the complete diversity of citizenship of the parties, the action is within the original jurisdiction of this Court, pursuant to 28 U.S.C. § 1332(a).

14. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court, District of Nebraska is the district court embracing the place where the state court suit is pending.

15. Notice of the filing of this Notice of Removal has been served on Plaintiffs' counsel and a copy has been filed with the Clerk of the District Court of Douglas County, Nebraska.

WHEREFORE, Defendant Liberty Mutual Fire Insurance Company states that it has divested the state court of jurisdiction by filing with that court a Notice of Filing of this Notice of Removal, and requests that this Court proceed with adjudication of this matter.

DEMAND FOR A JURY TRIAL

Defendant Liberty Mutual demands a trial by jury on all issues triable by a jury herein.

REQUEST FOR PLACE OF TRIAL

Pursuant to NECivR 40.1(b), Defendant Liberty Mutual hereby designates Omaha, Nebraska as the place of trial in this matter.

Respectfully submitted,

SEYFERTH BLUMENTHAL & HARRIS LLC

/s/ Bruce A. Moothart

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*Attorney for Defendant Liberty Mutual
Fire Insurance Company*

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2015 the above and foregoing document was filed with this Court by using the CM/ECF system and was served by U.S. mail, postage prepaid, addressed to the following:

Thomas A. Grennan
Gross & Welch, P.C., L.L.O.
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2120 South 72nd Street
Omaha, NE 68124

By: /s/ Bruce A. Moothart